



Reprinted
February 17, 2006

ENGROSSED SENATE BILL No. 253

DIGEST OF SB 253 (Updated February 16, 2006 3:33 pm - DI 52)

Citations Affected: IC 4-33; IC 14-15; IC 14-25; IC 14-26; IC 35-45; noncode.

Synopsis: Activities along shorelines. Requires that a person who performs certain activities concerning water levels, shorelines, and lake beds along a lake or within ten feet of a lake obtain a permit from the department of natural resources. Directs the natural resources commission to adopt rules. Makes conforming changes. Repeals superseded laws concerning permits to change water levels, shorelines, and lake beds. Makes littering a Class A misdemeanor instead of a Class B infraction if refuse is placed or left in, on, or within 100 feet of a body of water that is under the jurisdiction of the: (1) department of natural resources; or (2) United States Army Corps of Engineers.

Effective: July 1, 2006.

Weatherwax

(HOUSE SPONSORS — HOFFMAN, BISCHOFF)

January 9, 2006, read first time and referred to Committee on Natural Resources.
January 23, 2006, amended, reported favorably — Do Pass.
January 26, 2006, read second time, ordered engrossed.
January 27, 2006, engrossed.
January 30, 2006, read third time, passed. Yeas 42, nays 8.

HOUSE ACTION

February 2, 2006, read first time and referred to Committee on Natural Resources.
February 13, 2006, amended, reported — Do Pass.
February 16, 2006, read second time, amended, ordered engrossed.

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ES 253—LS 6999/DI 77+



Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 253

A BILL FOR AN ACT to amend the Indiana Code concerning
natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-33-4-19 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. The commission
3 shall revoke the license of a licensee who operates a riverboat upon
4 Patoka Lake if that licensee violates any of the following:

5 ~~(1) IC 14-26-2-6.~~

6 ~~(2) (1) IC 14-26-2-7.~~

7 **(2) IC 14-26-2-23.**

8 **(3) IC 14-28-1.**

9 SECTION 2. IC 14-15-2-8 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. **(a) This section**
11 **does not apply to a body of water that is under the jurisdiction of**
12 **the:**

13 **(1) department; or**

14 **(2) United States Army Corps of Engineers.**

15 ~~(a)~~ **(b)** As used in this section, "litter" means bottles, glass, crockery,
16 cans, scrap metal, junk, paper, garbage, rubbish, plastic, or similar
17 refuse.

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(b) (c) In the operation or use of watercraft, a person may not throw, dump, place, deposit, or cause or permit to be thrown, dumped, placed, or deposited:

- (1) any litter, filth, or putrid or unwholesome substance; or
- (2) the contents of a water closet or toilet, catch basin, or grease trap;

in or upon public water or the banks of public water.

SECTION 3. IC 14-25-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Fees received by the department under the following statutes shall be deposited in the fund:

(+) IC 14-26-2-9.

(1) IC 14-26-2-23.

(2) IC 14-26-5-4.

(3) IC 14-28-1-22.

(4) IC 14-29-3-2.

(5) IC 14-29-4-4.

SECTION 4. IC 14-26-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) Unless a person obtains a permit from the department under this section and conducts the activities according to the terms of the permit, a person may not conduct the following activities:

(1) Over, along, or lakeward of the shoreline or waterline of a public freshwater lake:

(A) excavate;

(B) place fill; or

(C) place, modify, or repair a temporary or permanent structure.

(2) Construct a wall whose lowest point would be:

(A) below the elevation of the shoreline or waterline; and

(B) within ten (10) feet landward of the shoreline or waterline, as measured perpendicularly from the shoreline or waterline;

of a public freshwater lake.

(3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or waterline.

(b) An application for a permit for an activity described in subsection (a) must be accompanied by the following:

(1) A nonrefundable fee of one hundred dollars (\$100).

(2) A project plan that provides the department with sufficient information concerning the proposed excavation, fill, temporary structure, or permanent structure.

(3) A written acknowledgment from the landowner that any

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additional water area created under the project plan is part of the lake and is dedicated to the general public use with the public rights described in section 5 of this chapter.

(c) The department may issue a permit after investigating the merits of the application. In determining the merits of the application, the department may consider any factor, including cumulative effects of the proposed activity upon the following:

- (1) The shoreline, waterline, or bed of the lake.
- (2) The fish, wildlife, or botanical resources.
- (3) The public rights described in section 5 of this chapter.
- (4) The management of watercraft operations under IC 14-15.
- (5) The interests of a landowner having property rights abutting the lake or rights to access the lake.

(d) A contractor or agent of the landowner who engages in an activity described in subsection (a)(1), (a)(2), or (a)(3) must comply with the terms of a permit issued under this section.

(e) The commission shall adopt rules in the manner provided in ~~IC 14-10-2-4~~ under IC 4-22-2 to do the following:

- (1) Assist in the administration of this chapter.
- (2) Provide objective standards for licensing:
 - (A) the placement of a temporary or permanent structure or material; or
 - (B) the extraction of material;

over, along, or within a shoreline or waterline: issuing permits under this section, including standards for the configuration of piers, boat stations, platforms, and similar structures. The standards:

(A) may provide for a common use if the standard is needed to accommodate the interests of landowners having property rights abutting the lake or rights to access the lake; and

(B) shall exempt any class of activities from licensing, including temporary structures, if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.

(3) Establish a process under IC 4-21.5 for the mediation of disputes among riparian owners persons with competing interests or between a riparian owner person and the department concerning the usage of an area over, along, or within a shoreline or waterline for a matter within the jurisdiction of this chapter.

The A rule adopted under this subsection must provide that:

(A) if good faith mediation under the process fails to achieve

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1 a settlement, the department shall make a determination of the
2 dispute; and

3 (B) a person affected by the determination of the department
4 may seek administrative review by the commission.

5 SECTION 5. IC 35-45-3-2 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person who
7 recklessly, knowingly, or intentionally places or leaves refuse on
8 property of another person, except in a container provided for refuse,
9 commits littering, a Class B infraction. **However, the offense is a**
10 **Class A misdemeanor if the refuse is placed or left in, on, or within**
11 **one hundred (100) feet of a body of water that is under the**
12 **jurisdiction of the:**

13 (1) department of natural resources; or

14 (2) United States Army Corps of Engineers.

15 (b) "Refuse" includes solid and semisolid wastes, dead animals, and
16 offal.

17 (c) Evidence that littering was committed from a moving vehicle
18 other than a public conveyance constitutes prima facie evidence that it
19 was committed by the operator of that vehicle.

20 SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE
21 JULY 1, 2006]: IC 14-26-2-6; IC 14-26-2-9.

22 SECTION 7. [EFFECTIVE JULY 1, 2006] (a) A permit issued
23 under IC 14-26-2-6 or IC 14-26-2-9, before their repeal by this act,
24 is valid and shall be considered a permit issued under
25 IC 14-26-2-23, as amended by this act. A permit described in this
26 SECTION expires on the date the permit would have expired if
27 IC 14-26-2-6 and IC 14-26-2-9 had not been repealed by this act.

28 (b) This SECTION expires July 1, 2008.

29 SECTION 8. [EFFECTIVE JULY 1, 2006] IC 35-45-3-2, as
30 amended by this act, applies only to offenses committed after June
31 30, 2006.

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COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 253, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 17, after "licensing" insert ", **including temporary structures,**".

and when so amended that said bill do pass.

(Reference is to SB 253 as introduced.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 6, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Senate Bill 253, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 12 through 18, begin a new line block indented and insert:

"(2) Construct a wall whose lowest point would be:

(A) below the elevation of the shoreline or waterline; and

(B) within ten (10) feet landward of the shoreline or waterline, as measured perpendicularly from the shoreline or waterline;

of a public freshwater lake."

and when so amended that said bill do pass.

(Reference is to SB 253 as printed January 24, 2006.)

HOFFMAN, Chair

Committee Vote: yeas 8, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 253 be amended to read as follows:

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Page 1, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 2. IC 14-15-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. **(a) This section does not apply to a body of water that is under the jurisdiction of the:**

(1) department; or

(2) United States Army Corps of Engineers.

~~(a)~~ **(b)** As used in this section, "litter" means bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, plastic, or similar refuse.

~~(b)~~ **(c)** In the operation or use of watercraft, a person may not throw, dump, place, deposit, or cause or permit to be thrown, dumped, placed, or deposited:

(1) any litter, filth, or putrid or unwholesome substance; or

(2) the contents of a water closet or toilet, catch basin, or grease trap;

in or upon public water or the banks of public water."

Page 3, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 5. IC 35-45-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person who recklessly, knowingly, or intentionally places or leaves refuse on property of another person, except in a container provided for refuse, commits littering, a Class B infraction. **However, the offense is a Class A misdemeanor if the refuse is placed or left in, on, or within one hundred (100) feet of a body of water that is under the jurisdiction of the:**

(1) department of natural resources; or

(2) United States Army Corps of Engineers.

(b) "Refuse" includes solid and semisolid wastes, dead animals, and offal.

(c) Evidence that littering was committed from a moving vehicle other than a public conveyance constitutes prima facie evidence that it was committed by the operator of that vehicle."

Page 3, after line 39, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE JULY 1, 2006] **IC 35-45-3-2, as amended by this act, applies only to offenses committed after June 30, 2006.**"

Renumber all SECTIONS consecutively.

(Reference is to ESB 253 as printed February 14, 2006.)

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